



# **City of Grand Island**

**Tuesday, February 26, 2008**

**Council Session**

## **Item G20**

**#2008-73 - Approving MAPP CEII Non- Disclosure Agreement -  
Utilities Department**

**Staff Contact: Gary R. Mader**

# **Council Agenda Memo**

**From:** Gary R. Mader, Utilities Director  
Wesley Nespor, Asst. City Attorney/Purchasing

**Meeting:** February 26, 2008

**Subject:** MAPP CEII Non-Disclosure Agreement

**Item #'s:** G-20

**Presenter(s):** Gary R. Mader, Utilities Director

## **Background**

The Electric Department maintains a 115,000 volt transmission loop that provides reliable power to the substations connected to it. In addition, several transmission connections with the regional grid are established from various locations around the loop. As the City grows, this system is expanded as needed. Expansions of this system are required to be submitted in a biennial transmission plan to the Mid-Continent Area Power Pool (MAPP). MAPP is an organization that provides pooling of generation for power sales and purchases across a region consisting of eight states and two Canadian provinces. The City of Grand Island falls within the MAPP region and participates through a joint operating agreement with Nebraska Public Power District (NPPD).

## **Discussion**

In a post-911 world, security of sensitive documentation becomes increasingly more important. Participants with MAPP share sensitive information with other utilities for transmission planning purposes. This information is known to MAPP as Critical Energy Infrastructure Information (CEII). In an effort to maintain the security of this information, MAPP is requiring a Non-Disclosure Agreement to be signed by all participating utilities.

## **Alternatives**

It appears that the Council that the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to a future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends the MAPP CEII Non-Disclosure Agreement be approved and signed to allow continued involvement with MAPP and related transmission planning efforts.

## **Sample Motion**

Move to approve the MAPP CEII Non-Disclosure Agreement to continue involvement with MAPP.

**MAPP CRITICAL ENERGY INFRASTRUCTURE INFORMATION  
NON-DISCLOSURE AGREEMENT**

1. These provisions govern the use of Critical Energy Infrastructure Information (CEII) provided to an individual who files a request for access to CEII pursuant to the MAPP CEII Policy administered by MAPPCOR.
2. Definitions – For purposes of these provisions:
  - a. The terms “non-disclosure agreement” and “NDA” mean this agreement by which requesters certify their understanding that access to CEII is provided pursuant to the terms and restrictions of these provisions, and that such requesters have read the provisions and agree to be bound by them.
  - b. The term “Recipient” means someone who is approved to receive CEII in accordance with the provisions of the MAPP CEII Policy.

In the event that an organization seeks CEII, and it is intended that multiple employees, agents and consultants of the organization will have access to the CEII, all such employees, agents, and consultants shall execute the NDA. Each employee, agent and consultant that executes the NDA shall individually be a Recipient and be bound by the provisions of the MAPP CEII Policy and the NDA. A current list of all Recipients within the Organization shall be appended to the NDA. Any subsequent additions to, or deletions of, individual Recipients on the NDA must be sent to MAPP and the revised NDA must be executed by the new Recipients.

3. A Recipient may only discuss CEII with another Recipient of the identical CEII. A Recipient may check with MAPPCOR to determine whether another individual is a Recipient of the identical CEII.
4. A Recipient of CEII may use CEII as foundation for advice provided to others, but may not disclose CEII to another individual unless that individual is an approved Recipient of the same CEII.
5. A Recipient will not knowingly use CEII for an illegal or non-legitimate purpose.
6. All CEII shall be maintained by Recipient in a secure place. Access to those materials shall be limited to other Recipients of the identical material. Recipients may make copies of CEII, but such copies become CEII and subject to these same procedures. Recipients may make notes of CEII, which shall be treated as CEII notes if they contain CEII.
7. Recipients must return CEII to MAPPCOR or destroy CEII within fifteen days of a written request by MAPPCOR to do so, except that CEII notes may be retained in accordance with Paragraph 6, above. Within such time period, each Recipient, if requested to do so, shall also submit to MAPPCOR an affidavit stating that, to the best of his or her knowledge, all CEII has been returned or destroyed and that CEII notes have

either been returned, destroyed or are being maintained by Recipient in accordance with Paragraph 6.

8. The Recipient remains bound by these provisions unless MAPPCOR rescinds the provisions or a court of competent jurisdiction finds that the information does not qualify as CEII.
9. MAPPCOR may audit the Recipient's compliance with this non-disclosure agreement.
10. I hereby certify my understanding that access to CEII is provided to me pursuant to the terms and restrictions of the above CEII provisions and MAPP CEII Policy, that I have been given a copy of and have the provisions, and that I agree to be bound by them. I understand that the contents of the CEII, any notes or other memoranda, or any other form of information that copies or discloses CEII shall not be disclosed to anyone other than another person who has been granted access to these same materials by MAPPCOR. I agree that my compliance with the agreement is subject to audit by MAPPCOR and that disputes regarding this agreement may be resolved before the Federal Energy Regulatory Commission.

By: \_\_\_\_\_  
Signature

Print Name: Margaret Hornady

Organization or Company: City of Grand Island

\_\_\_\_\_  
Title: Mayor

Date: 2/26/08

**MAPP CRITICAL ENERGY INFRASTRUCTURE INFORMATION  
NON-DISCLOSURE AGREEMENT**

**Additional Organizational Recipients**

<u>Signature</u>	<u>Print Name</u>	<u>Organization</u>	<u>Title</u>	<u>Date</u>
	Gary R. Mader	City of Grand Island	Utilities Director	2/26/08
	Travis W. Burdett	City of Grand Island	Assistant Utilities Director	2/26/08
	Jeffrey L. Mead	City of Grand Island	Senior Electrical Engineer	2/26/08

# MAPP Critical Energy Infrastructure Information (CEII) Policy

## I. CEII Defined (FERC Order No. 683, issued September 21, 2006)

CEII is specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

1. Relates details about the production, generation, transmission, or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. 552 (2000);; and
4. Does not simply give the general location of the critical infrastructure.

## II. CEII - Related Document Classes

Document and Information Type	Marking	Treatment	Access
<b>PUBLIC</b>	None or "Public"	Maintained in the Public Website <a href="http://www.mapp.org">www.mapp.org</a> and on the MAPP OASIS information page.	The public has unrestricted access to the "public" areas of the website.
<b>CEII (NONPUBLIC)</b> Specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that: (1) is exempt from mandatory disclosure under FOIA, 5 U.S.C. 552 (2000), (2) relates details about the production, generation, transportation, transmission or distribution of energy, (3) could be useful to a person planning an attack on the infrastructure, and (4) does not simply give the location of the critical infrastructure.	"Contains Critical Energy Infrastructure Information - Do Not Release"	Not available on Public website.	Public may file a CEII request.

### III. CEII Requests & Exemptions

An owner/operator of a facility, including employees and officers of the owner/operator, may obtain CEII information relating to its own facility directly from MAPPCOR without going through the procedure outlined below. However, an agent or representative of an owner/operator must obtain information from the owner/operator.

MAPP Members are expected to execute the MAPP CEII non-disclosure agreement. MAPPCOR will administer all executed MAPP CEII non-disclosure agreements.

#### To File a CEII Request for Data

Please include the following information in writing (fax, e-mail, or mailed letter):

1. Be as specific as possible. In the request include the description of the information requested such as the report or file names, dates and etc.
2. Contact and identifying information:
  - a. First name, middle initial, and last name
  - b. Title (attorney, engineer, private citizen etc.)
  - c. Full mailing address
  - d. Area code and telephone number
  - e. E-mail address
3. If filing the CEII request on behalf of another person or entity, include that person or entity's contact information:
  - a. Name
  - b. Address
  - c. Telephone number
4. Provide a detailed statement explaining the particular need for and intended use of the CEII.
5. Complete, sign, and attach the non-disclosure agreement requiring the adherence to limitations on the use and disclosure of the information requested.
6. Send the request to:

#### **MAPPCOR**

Barbara Moses or Catherine Allen

[bl.moses@mappcor.org](mailto:bl.moses@mappcor.org) or [cm.allen@mappcor.org](mailto:cm.allen@mappcor.org)

P: 651-294-7070

F: 651-294-7099



1970 Oakcrest Avenue  
Suite 200  
Roseville, MN 55113-2624

#### **IV. MAPPCOR's Initial Review**

At the time the CEII request is received, MAPPCOR will determine if the requested information meets the requirements of CEII outlined in this document, and if determined as such, whether or not to release the documents to the requesting party. MAPPCOR will strive to balance your information needs against the sensitivity of the information.

If MAPPCOR determines that the requested information is not CEII, the requesting party will be advised of whom to contact for the information requested. At this point it is possible that a FOIA request may be required.

#### **Post Request Procedure**

If the requesting party is eligible to receive the CEII requested, MAPPCOR will determine what conditions, if any, to place on the release of the information. The requesting party must sign a Non-Disclosure Agreement (NDA) to receive the information requested. When the completed NDA is returned, MAPPCOR may provide the requested CEII provided that all other requirements in this document have been met.

#### **Time**

MAPPCOR will attempt to respond within 21 calendar days. However, MAPPCOR is not legally bound to do so for CEII requests.

#### **V. Further Information On The Applicability Of This Policy**

MAPP Members that submit information labeled as CEII to MAPPCOR or to MAPP committees will be deemed to have submitted the information pursuant to this MAPP CEII Policy, unless otherwise clearly indicated. Information that is submitted pursuant to individual MAPP Member CEII policies will be governed by those policies and MAPPCOR will not distribute such information without prior approval by the submitting MAPP Member or unless otherwise authorized by the submitting MAPP Member. Information that is submitted pursuant to this MAPP CEII Policy may be distributed to additional recipients if such recipients have satisfied the requirements of this policy, as will be determined solely by MAPPCOR.

Pursuant to the transmission planning reforms of FERC Order No. 890, MAPP regional transmission planning meetings must be open and transparent, and interested persons are accordingly permitted to attend MAPP regional

transmission planning meetings. In the event CEII information is discussed at MAPP regional transmission planning meetings, attendance will be conditioned upon execution of the MAPP CEII non-disclosure agreement; MAPP regional transmission planning meetings that discuss CEII will be closed to all persons that have not executed a MAPP CEII non-disclosure agreement.

Requests for information from MAPP and related to regional transmission planning in MAPP must be submitted pursuant to this MAPP CEII Policy. If the requested information is held by an individual MAPP Member, the requestor will be directed to that Member and access to the information shall not be subject to the MAPP CEII Policy, unless the Member so indicates to both MAPP and the requestor.

RESOLUTION 2008-73

WHEREAS, the Utilities Department of the City of Grand Island maintains a 115,000 volt transmission loop, providing reliable power to the substations connected to it; and

WHEREAS, expansions of the city's system are required to be submitted in a biennial transmission plan to the Mid-Continent Area Power Pool (MAPP), which provides pooling of generation for power sales and purchases; and

WHEREAS, the City of Grand Island falls within the MAPP region and participates through a joint operating agreement with the Nebraska Public Power District (NPPD); and

WHEREAS, in an effort to maintain security of sensitive information, known as Critical Energy Infrastructure Information (CEII), MAPP is requiring a Non-Disclosure Agreement to be signed by all participating utilities; and

WHEREAS, the Non-Disclosure Agreement has been reviewed by the city's Legal Department.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Non-Disclosure Agreement between the City of Grand Island and Mid-Continent Area Power Pool (MAPP) is hereby approved and the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska on February 26, 2008.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form	☐
February 21, 2008	☐ City Attorney